
TITLE 326 AIR POLLUTION CONTROL BOARD

NOTICE OF READOPTION
IC 13-14-9.5 FIRST NOTICE OF COMMENT PERIOD
LSA Document #08-768

READOPTON OF RULES IN TITLE 326 UNDER IC 13-14-9.5

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on the readoption of 326 IAC 16 under IC 13-14-9.5.

RULES TO BE READOPTED: 326 IAC 16-1; 326 IAC 16-2.

The foregoing rules are identified by name as follows:

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|---------------------|--|
| <u>326 IAC 16-1</u> | Environmental Assessment; Activities of State Agencies |
| <u>326 IAC 16-2</u> | Environmental Impact Statement; Activities of State Agencies |

RULES TO EXPIRE: None.

AUTHORITY: IC 13-14-9.5.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

IC 13-14-9.5 provides for the expiration and readoption of administrative rules. A rule that was adopted under a provision of IC 13 and was in force on December 31, 1995, expires not later than January 1, 2002. All rules adopted after that date under IC 13-14-9, expire on January 1 of the seventh year after the year in which each rule takes effect. The rules listed to be readopted have an expiration date of January 1, 2009.

Under IC 13-14-9.5-4, the department or board that has rulemaking authority under Title 13 may readopt all rules subject to expiration under one rule that lists all rules that are readopted by their titles and subtitles only. If no comments are received during this first comment period, IDEM may submit the rule for filing with the Publisher under IC 4-22-2-35 and publish notice in the Indiana Register that the agency has readopted the rule.

Rules at 326 IAC 16-1 and 326 IAC 16-2 were to expire on January 1, 2008, but, by Executive Order #07-22, issued December 28, 2007 (Executive Order #07-22, posted at [20080116-IR-GOV080004EOA](#)), the expiration date of the rules was extended to January 1, 2009. A rulemaking under IC 13-14-9 was initiated on April 2, 2008, with the Notice of First Comment Period (DIN: [20080402-IR-326080208FNA](#)) to develop amendments to the rules at 326 IAC 16-1 and 326 IAC 16-2. A second notice with suggested amendments to these rules will be published shortly in the Indiana Register.

This readoption rulemaking will serve to preserve 326 IAC 16-1 and 326 IAC 16-2 as they currently exist, which will allow time for the ongoing rulemaking on these rules under IC 13-14-9 (LSA Document #08-208) to proceed without the expiration of Article 16.

STATUTORY AND REGULATORY REQUIREMENTS

IC 13-14-9.5-4 requires that the following procedure be followed to readopt rules:

- (1) A notice listing all rules to be readopted by their titles and subtitles shall be submitted to Legislative Services Agency for publication in the Indiana Register.
- (2) If a person submits a written request and a basis for the request during the first comment period that a particular rule be readopted separately from the readoption rule that readopts all rules in one rulemaking, the agency must:
 - (A) readopt that rule separately from the readoption rule; and
 - (B) follow the procedure for adoption of administrative rules under IC 13-14-9 with respect to that rule.
- (3) If no written request is provided within the first comment period, the agency may submit the rule for filing with the Publisher under IC 4-22-2-35 and publish notice in the Indiana Register that the agency has readopted the rule.

REQUEST FOR PUBLIC COMMENTS

IDEM requests that any written comments requesting that a rule be readopted separately from this readoption rule include a basis for the request. IDEM also solicits comment on rules exempt from readoption and rules to expire. Mailed comments should be addressed to:

#08-768 (2008 Readoption of 326 IAC 16)

Susan Bem Mail Code 61-50
c/o Administrative Assistant
Rules Development Section
Office of Air Quality
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46204

Hand delivered comments will be accepted by the IDEM receptionist on duty at the tenth floor reception desk, Office of Air Quality, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-2342, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Section at (317) 233-0426.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by November 14, 2008.

Additional information regarding this action may be obtained from Susan Bem, Rules Development Section, Office of Air Quality, (317) 233-5697 or (800) 451-6027 (in Indiana).

Scott Deloney, Chief
Air Programs Branch
Office of Air Quality

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